

### **APPLICANT'S REMARKS**

The 11/22/05 Office Action indicates that reference numeral 63 in the drawings is not mentioned in the description. A set of replacement drawings are submitted herewith, in which the reference numeral 63 has been removed from FIG. 4, which is believed to be the only former occurrence of the reference numeral 63 in the drawings figures.

The drawings submitted herewith are verbatim copies of the original, informal drawings submitted in this application. No new matter is entered.

The drawings were further objected to as not showing the subject matter of claims 23, 24. It is respectfully requested that these claims be cancelled from further consideration herein, not for reasons of patentability, however, but out of convenience in advancing prosecution of the remaining claims.

The 11/22/05 Office Action indicates that the Abstract is objected to for informalities. On the next page of this Response, please find an amended Abstract paragraph.

Please replace the Abstract with the following amended paragraph:

~~Provided herein is a~~ A wheeled device useful for transporting and storing a wide variety of cargos, including cartons, crates, boxes and the like and which finds special utility in transporting and stowing musical equipment, such as amplifiers and speakers. ~~A~~ The instant device ~~according to the invention~~ includes vertical and horizontal elements, and further includes support arms having a variable width by which the cargo may be grasped and firmly held in place on the device. Use of a device according to the invention causes optimization of floor space required to store items on a moveable base.

Claims 13 and 18 were objected to for faulty punctuation. These claims are amended herein to remedy these defects. Applicant is grateful to learn of these errata.

### **Claim Rejections under 35 USC 112**

The 11/22/05 Office Action indicates claims 7 and 11-15 stand rejected under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention, stating:

In claim 7, the recitation of the intersection of the "substantially horizontal" and "substantially vertical" planes being at an angle of between 60 and 120 degrees appears inconsistent, inasmuch as the intersection of "substantially horizontal" and substantially vertical" elements would be expected to be "substantially orthogonal" or substantially 90 degrees. In claim 11 and claims dependent therefrom, the recitation of a fourth support arm without the recitation of a third support arm (note that claim 11 is written to depend from claim 9, not claim 10) is confusing; in claim 12, the recitation of a third support arm lacks a clear antecedent basis – in general it appears as though claim 11 is intended to be dependent from claim 10, and will be interpreted in that manner for the purpose of this office action."

Claim 7 has been cancelled from further consideration herein, because it does not further limit the subject matter of the claim from which it depends, but rather broadens it by reciting that the angle of intersection between the aforementioned horizontal and vertical planes is other than about 90 degrees. It is noted that by claim 7 the present disclosure teaches a wide possible range of angles of the intersection of these planes.

Applicant is grateful to the Examiner for pointing out that claim 11 was improperly dependent on claim 9. Claim 11 has been amended herein to be properly dependent on claim 10. No new matter is entered by this claim amendment.

### **Claim Rejections under 35 USC 102**

The 11/22/05 Office Action indicates that claims 21 and 22 stand rejected under 35 USC

§ 102 (b), as being anticipated by Marques (US 6,113,129) stating:

"Marques teaches a hand truck having a horizontal portion (30) and a vertical portion (2) having linear structural elements, a plurality of support arms (40) extending from the elements, having outer ends (41) and tip portions (45) as well as means for varying the arm length (46,47) wherein the arms are comprised of inner and outer portions slidably connected to one another (44,43)"

Applicant understands that according to MPEP 8<sup>th</sup> ed. ; §706.02 pp 700-21, col. 1, under the heading: DISTINCTION BETWEEN 35 U.S.C 102 AND 103 , that for anticipation under 35 USC 102 to be proper, *"the reference must teach every aspect of the claimed invention"*.

As regards the Marques reference, the support arm members 40 are slidably received on the cross-piece element 41 (col. 3, lines 3-8), which cross-piece element is oriented horizontally.

Thus, it is clear that the support arm members in Marques are not attached to one or more of the vertical support members in Marques. Applicant has amended claim 21 herein to include the limitation that Applicant's support arm elements in claim 21 are each attached to vertically-disposed linear structural elements in his device. Thus, the Marques reference does not teach every aspect of Applicant's invention, particularly the structural limitations in Applicant's instantly-amended claim 21 (concerning the location at which the support arms are connected), and claim 22 dependent therefrom. For these reasons, Applicant respectfully submits that claims 21 and 22 should now be in condition for allowance. No new matter is entered by the amendment of claim 21 herein; support arms attached to vertically-disposed linear structural elements occur throughout Applicant's drawing figures and are described in Applicant's

specification.

In Marques, the support arm members are slidably attached to the cross-piece element 41 to confer functionality to the Marques device, (making it compactable as shown in FIG. 2 therein) which functionality would be lost if one were to modify the Marques device so that the support arm members were attached to other portions of the Marques device. In view of this, modification of Marques in a way which might tend to mimic Applicant's device would actually be teaching away from what is taught in Marques.

### **Claim Rejections under 35 USC 103**

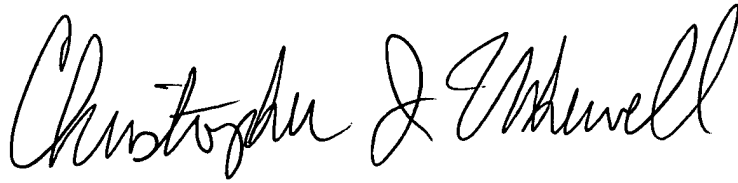
The 11/22/05 Office Action indicates that claims 23 and 24 stand rejected under 35 USC § 103(a) as being unpatentable over Marques in view of Carruthers; and over Marques in view of Carruthers and McCarty, respectively. Applicant has cancelled claims 23 and 24 herein and respectfully submits this rejection is no longer applicable with respect to any remaining pending claims.

This has been a bona fide attempt to advance prosecution in this pending Application for patent and it is believed that all issues raised in the 11/22/05 Office Action have been addressed and remedied herein. Any oversight is unintentional, and in the case of the existence of an unintentional oversight, your undersigned Agent respectfully requests the Examiner to consider a telephonic communication, to the extent same may effectuate further advancement of prosecution.

Applicant is grateful for all consideration received, and respectfully submits that all of claims 1-6, and 8-22 should now be in condition for allowance.

Thank you for your consideration.

Respectfully submitted,

A handwritten signature in black ink, reading "Christopher J. Whewell". The signature is written in a cursive style with a large, stylized 'C' and 'W'.

Christopher J. Whewell, Reg. 37,469  
WESTERN PATENT GROUP  
6020 Tonkowa Trail  
Georgetown, Texas 78628  
(512) 763-1142